

**DURHAM, NORTH CAROLINA  
MONDAY, OCTOBER 21, 2002  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia Conner, Assistant City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

The Mayor as well as members of the Durham City Council thanked staff, the volunteers, SEEDS, the schools and everyone involved for their participation during the NCLM Annual Conference in Durham on October 20-21. Also, the Council asked the City Manager to have these individuals present at the November 4, 2002 City Council Meeting for a special recognition.

Also, the Mayor recognized Barbara Bailey of the Little River Elementary School who made comments about the murals displayed in the Council Chambers.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. Relative to Consent Item #19 [Inter-local Agreement – 100<sup>th</sup> Anniversary of Powered Flight], City Manager Conner noted there are additional motions [adopting a resolution and ordinance] that need to be added to this item. Also, the Manager updated Council on the police chief process noting the search has been narrowed to two finalists [Charles Austin and Douglas Scott], there will be site visits and a decision will be made by the end of the month.

[No priority items from the City Attorney and City Clerk].

Council Member Clement requested the following item be added to the agenda.

**SUBJECT: RESOLUTION MEMORIALIZING FRED D. MCNEILL, JR.**

**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to add an item to the agenda and to direct the City Clerk to prepare a resolution memorializing Fred D. McNeill, Jr. was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items #6 [Major Site Plan – NC 55 Car Wash], #11 [Water & Sewer Extension], #12 [Computer Lease Agreement] and #19 [Inter-local Agreement - 100<sup>th</sup> Anniversary of Powered Flight] were pulled from the Consent Agenda.

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**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the official minutes of the September 16, 2002 regular City Council Meeting was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: RESOLUTION MEMORIALIZING CARDOZA MCCOLLUM, SR. (MAC)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a Resolution Memorializing Cardoza McCollum, Sr. (Mac) was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8917**

**SUBJECT: RESOLUTION HONORING DANNY MANGUM**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a Resolution Honoring Danny Mangum was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8918**

**SUBJECT: DURHAM HOUSING AUTHORITY - APPOINTMENT**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint Hazel D. Rich to the Durham Housing Authority-term to expire September 28, 2007 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: MAJOR SITE PLAN - HILLSBOROUGH ROAD  
RETAIL/COMMERCIAL (SITE PLAN CASE D02-068)**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a Major Site Plan for a proposed retail/office center located north of Hillsborough Road, east of Sparger Road and west of Anthony Drive consisting of a proposed 15,600 square foot one-story retail/office building with 78 motor vehicle parking spaces and four bicycle parking spaces on a +/-3.56 acre site, zoned NC and Eno-B was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PROPOSED 2003 CERTIFICATES OF PARTICIPATION (COPS)  
REIMBURSEMENT DECLARATION – FIRE STATION #8**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the reimbursement resolution allowing the City to recover its expenses prior to financing for the Fire House #8 Project was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8919**

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH TDI  
DURHAM AT MLK, L.L.C. - BAY POINTE SUBDIVISION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a water and sewer extension agreement with TDI Durham at MLK, L.L.C. to serve Bay Pointe Subdivision was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: SEWER EXTENSION AGREEMENT WITH SOREN WINDRAM -  
WINDRAM VETERINARY CLINIC**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a sewer extension agreement with Soren Windram to serve Windram Veterinary Clinic was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO JULY 1, 2002 – ROSA BELVIN PROPERTY AND ALEXANDER VILLAGE AT BRIER CREEK**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report from the Administration on the voluntary annexation petitions; and

To accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-58 and 160A-31; and

To adopt resolutions establishing public hearings for November 4, 2002 on the following submitted voluntary petition annexations: Rosa Belvins Property; Alexander Village at Brier Creek was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8920 - 8921**

**SUBJECT: GRANT AWARD FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR EMERGENCY EXTRICATION AND RESCUE EQUIPMENT**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the grant award of \$57,400 from the Federal Emergency Management Agency for emergency extrication and rescue equipment; and

To adopt the Federal Emergency Management Agency Assistance To Firefighters Grant Project Ordinance was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12676**

**SUBJECT: REIMBURSEMENT OF COSTS TO BE INCURRED FOR LAW ENFORCEMENT ASSISTANCE IN CHAPEL HILL – CITY OF DURHAM – TOWN OF CHAPEL HILL – HALLOWEEN**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract for Reimbursement of Costs Incurred for Law Enforcement Assistance in Chapel Hill; and

To adopt the Grant Project Ordinance for the City of Durham and Town of Chapel Hill for Temporary Law Enforcement Assistance During Halloween FY 03 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**Ordinance # 12677**

**SUBJECT: CONTRACT SR-27 SEWER MAIN REPLACEMENT AND POINT REPAIR - BILLINGS & GARRETT, INCORPORATED**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Billings & Garrett, Incorporated in the amount of \$1,725,319; and

To establish a contingency fund for the Sewer Main Replacement and Point Repairs project of \$434,681; and

To authorize the City Manager to negotiate change orders for Contract SR-27 Sewer Main Replacement and Point Repair provided that the cost of all change orders does not exceed \$434,681 and the total project cost does not exceed \$2,160,000 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT ST-212 STADIUM DRIVE IMPROVEMENTS - B & B PAVING COMPANY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with B & B Paving Company, Incorporated in the amount of \$1,279,876; and

To establish a contingency fund for the Stadium Drive Improvements Project of \$450,124; and

To authorize the City Manager to negotiate change orders for Contract ST-212 Stadium Drive Improvements provided that the cost of all change orders does not exceed \$450,124 and the total project cost does not exceed \$1,730,000 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DEMOLITION OF DATA OPERATIONS CENTER - D. H. GRIFFIN WRECKING COMPANY, INC. - 111 AND 123 VIVIAN STREET**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with D. H. Griffin Wrecking Company, Inc. in the sum of \$209,975.00 for the purpose of demolition and remediation of the former DATA Operations Center; and

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To authorize the City Manager to negotiate and execute change orders on the DATA demolition project provided that the total cost of all change orders does not exceed \$150,000 and the total cost does not exceed \$359,975.00 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: COMPREHENSIVE PLAN UPDATE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive information on the guiding principles and status of the Comprehensive Plan Project was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CHAD BICKERS – WHITEHALL AND ROCKY RIDGE  
SUBDIVISIONS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to hear comments from Chad Bickers from the Whitehall and Rocky Ridge Subdivisions regarding the connection of Yorkshire and Dula Streets was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**NOTE: Further action was taken on this item later in the meeting.**

**SUBJECT: PAMELA ROOKS**

This was a citizen's item at the 10-10-02 Work Session.

**SUBJECT: LEVERN HARPER**

The items regarding a citizen's matter from LeVern Harper of CAC (Colliers Estates, Alston Avenue, Chenault) was referred to the Administration at the 10-10-02 Work Session.

**SUBJECT: RALPH MCKINNEY**

Comments from Ralph McKinney regarding various election violations at the 10-10-02 Work Session.

**SUBJECT: D.A.T.A. - DOWNTOWN TERMINAL**

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The item regarding the D.A.T.A. downtown terminal was removed from the agenda at the 10-10-02 Work Session.

**SUBJECT: CONVEYANCE OF PROPOSED EASEMENT TO DUKE POWER COMPANY**

The item regarding Conveyance of Proposed Easement to Duke Power Company within closed portion of Roney Street-Street Closing Case #SCO1-3 has been continued.

**SUBJECT: FEASIBILITY STUDY FOR THE PERFORMING ARTS THEATRE - WEBB MANAGEMENT SERVICES – PHASE II**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the Phase I finding of the feasibility study for the downtown Performing Arts Theater in downtown Durham; and

To authorize the City Manager to direct Webb Management Services to proceed with Phase II of the study was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: AIA CONTRACT FOR USA BASEBALL DESIGN – YONGUE ARCHITECTS, P.A.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with Yongue Architects, P.A. for the sum of \$68,210 plus a \$10,000 contingency for a total of \$78,210; and

To authorize the City Manager to negotiate and execute change orders on the USA Baseball Project Design Phase provided that the total cost of all change orders does not exceed \$10,000 and the total design project cost does not exceed \$78,210 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill one (1) Non-Minority member vacancy and one (1) Other Racial Group member vacancy-terms expiring June 30, 2005 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and

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Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None.  
Absent: None.

**SUBJECT: RESOLUTION MEMORIALIZING STEPHANIE REINHART**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to direct the City Clerk to prepare a Resolution Memorializing Stephanie Reinhart was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: NECD REINVESTMENT INC. (NORTHEAST CENTRAL DURHAM) – AUDIT REINSTATEMENT**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the reinstatement of the audit for NECD Reinvestment, Inc. was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: MAJOR SITE PLAN - NC 55 CAR WASH (CASE D02-390)**

To approve a Major Site Plan for a proposed car wash located south of Meredith Drive and NC 54 and west of NC 55 in the Park West Crossing Shopping Center, consisting of a 3,325 square foot, one-story building with two automatic and four self-service bays, parking for 21 motor vehicles and two bicycles on a +/-0.739 acre outparcel, zoned SC(D) and F/J-B(exempt).

Council Member Stith raised a concern with the site plan and its impact on the property relative to impervious surface and flooding.

According to the code, Planning Director Frank Duke noted the property covered by the site and development plans is exempt from meeting the resource protection provisions.

Jeff Lecky, of Ron Horvath & Associates, noted the site can handle any off-site drainage.

Council Member Stith spoke in support of a delay for one cycle so that the property owners can have their engineers take a look at the site.

**MOTION** by Council Member Stith seconded by Council Member Edwards to continue this item to the November 4, 2002 City Council Meeting was approved at 7:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council



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Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

At this time during the meeting, Council Member Best acknowledged there were citizens present to speak on Consent Agenda Item #28 [Chad Bickers].

**MOTION** by Council Member Best seconded by Council Member Stith to reconsider Consent Agenda Item #28 [Chad Bickers – Whitehall and Rocky Ridge Subdivisions] during the General Business Agenda was approved at 7:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WATER & SEWER EXTENSION AGREEMENT WITH DIAKO CONSTRUCTION, INC. - LEXINGTON PARK**

Mayor Bell raised a question about the cost of the proposed sewer line from 8" to 18".

**MOTION** by Mayor Bell seconded by Council Member Stith to authorize the City Manager to enter into a water and sewer extension agreement with Diako Construction, Inc. to serve Lexington Park was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: COMPUTER LEASE AGREEMENT - EPLUS GROUP, INC.**

Mayor Bell raised questions that were answered by staff concerning the type of system.

**MOTION** by Mayor Bell seconded by Council Member Stith to authorize the City Manager to execute a 36-month computer lease agreement with ePlus Group, Inc. in the amount of \$315,371 and to authorize the City Manager to make changes to the agreement such that the amount paid by the City does not increase and the Lessor's obligations are not decreased was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: INTER-LOCAL AGREEMENT WITH THE CITY OF DURHAM, COUNTY OF DURHAM, CITY OF RALEIGH, COUNTY OF WAKE AND RALEIGH-DURHAM AIRPORT AUTHORITY (RDU) – POWERED FLIGHT 100<sup>TH</sup> ANNIVERSARY**

Council Member Stith raised a concern about this item due to the City's current budget situation.

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**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to authorize the Manager to execute the inter-local agreement for the development of the icon portion of the Celebration of the 100<sup>th</sup> Anniversary of Powered Flight for the Triangle Region; and

To adopt “An Ordinance Amending the 2002-03 City of Durham Budget Ordinance, the Same Being Ordinance 12575”; and

To adopt “Resolution by the City Council of the City of Durham Authorizing the Charge of \$50,000 to the Contingency Account of the General Fund and a Credit of \$50,000 to the Governance Account” was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: Council Member Stith. Absent: None.

**Ordinance #12678**

**Resolution #8922**

At this time during the meeting, City Manager Conner recognized Fire Chief Otis Cooper and Gene Bradham, co-chairs of the 7 Stars Campaign for an update. Mr. Bradham discussed the results from last year’s campaign and upcoming fundraiser events. Also, the City Manager announced that there will be a Chili Kickoff on November 8 sponsored by the City Manager and Department Directors.

#### **[GENERAL BUSINESS AGENDA]**

**SUBJECT: AMENDMENTS TO THE COMPENSATION AND CLASSIFICATION PLAN (CONTINUED FROM THE 10-07-02 CITY COUNCIL MEETING)**

To amend the City of Durham’s Compensation and Classification Plan, adopted July 1, 2002, as indicated in the item.

Council Member Cole-McFadden asked that Council not consider any positions that are not currently filled at this time until the City Manager has reported on the impact of the budgetary shortfall.

Mayor Bell requested the administration to provide a report on the budget outlining the underlying assumptions with revenue projections at the Work Session scheduled for October 24.

Several members of Council raised a concern with this item.

Due to outstanding questions, the City Manager requested this item be referred to the October 24, 2002 City Council Work Session.

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**SUBJECT: NEAL FARM ZONING OFF NEAL ROAD ADJACENT TO AMERICAN VILLAGE**

To direct the Planning Department to initiate the rezoning of approximately 48 to 53 acres of the Neal Farms property from RM12 to a Low Density Residential in order to make it consistent with the North-Northwest Durham Small Area Plan.

Frank Duke, Planning Director, briefed Council on the staff report commenting on the request from the County Commissioners for Council to initiate the rezoning request, land use designation that is inconsistent with the small area plan and the site plan that was withdrawn but is now active.

Council held discussion on the rezoning and small area plan.

Assistant City Attorney Karen Sindelar briefed Council noting there is no legal impediment to anyone asking for a rezoning.

John Roberts, representing the developer, requested that this item be tabled for one week because they received notice about this late last week.

Dan Milam, of 4900 American Drive, provided Council with a handout of the area [American Village, Greenway and Lenox] and urged them to initiate the rezoning of approximately 48-acre tract of property along Neal Road.

Pete Partridge, of 310 McKinley Street, provided information on this item illustrating that the current zoning of the property in question is grossly incompatible with the character of the existing surrounding neighborhoods.

Sharon Lunk, of 103 Arthur Lane, presented Council with a petition signed by 370 residents and expressed density and traffic concerns.

Deborah Bryson, of 2 Coolidge Place, urged Council to vote in favor of this item.

Mayor Bell raised a concern about setting a precedent if Council initiates the rezoning.

Several Council Members expressed a concern about this item.

**MOTION** by Council Member Clement seconded by Council Member Edwards to continue this item to the November 4, 2002 City Council Meeting was approved at 8:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[ITEM RECONSIDERED FROM CONSENT AGENDA]**

**SUBJECT: CHAD BICKERS – WHITEHALL AND ROCKY RIDGE SUBDIVISIONS**

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Wesley Parham, of the Transportation Division, gave the history of this item relative to the issue of street connection.

Christine Schmid, of 4424 Dula Street, spoke in opposition to this item urging Council to not follow the City's policy of inter-connectivity and to allow these two subdivisions to remain separate.

Donna Parks spoke in opposition to connectivity asking Council to take a look at the traffic concerns.

Council held discussion on subdivision ordinance, points of access, cul-de-sacs, connectivity, lots A, B, 8 & 9 and the development plan.

Assistant City Attorney Sindelar briefed Council noting D rezonings cannot be initiated by anybody other than the owner or their representative.

Council Member Best asked the administration to take a second look at the issue of connectivity when new subdivision plans come along.

**MOTION** by Council Member Best seconded by Council Member Stith to receive the citizens' comments regarding the connection of Yorkshire and Dula Streets was approved at 8:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

#### **[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**

#### **SUBJECT: US 15-501 MIS PHASE II TRANSIT CORRIDOR MAP**

To receive public comment concerning the Faison Development Company's request to amend the US 15-501 Phase II Transit Corridor Map.

Mark Ahrendsen, Transportation Manager, briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Council Member Ed Harrison, representing Chapel Hill Town Council, noted any change of the corridor should involve the same jurisdictions who participated in the planning along with TAC and gave an overview of the resolution provided to Council noting the Chapel Hill Town Council is concerned that the proposed realignment of the Fixed Guideway Corridor in the area of South Square Mall needs additional evaluation to understand the impacts the change might have on ridership operations and financial feasibility. He asked Council that any change be made only after a thorough review of impacts of change and that land be reserved to ensure the continued viability of the corridor.

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Bob Jentsch, of 3906 Spring Stock Lane, noted the corridor change and site plan for the redevelopment of South Square will ignore small shopping centers and other business establishments adjacent to South Square and the proposal should be sent back to the drawing board and renegotiated.

Henry Faison, owner of South Square Mall, spoke in support of change making comments about the plan for the South Square redevelopment. He noted the location of the transit corridor provides a impediment to the redevelopment and if the corridor is not moved South Square would not be redeveloped. Also, Mr. Faison made comments about the two tenants.

Steve Gattis, representing Durham Area Designers, gave a power point presentation on South Square and the Transit and urged Council to not set a precedent which will lead to a piecemeal dismantling of the transit corridor.

Joel Kostyu, of 301 Monticello Avenue, spoke in opposition to this item noting South Square is a tired looking mall that is due to the developer not keeping up with timely changes and encouraged Mr. Faison to consider the positive features that the transit line as it is now can bring to the area and asked that whatever comes here that it be kept up.

Jack Markham, representing owner, spoke in support of this item. He noted the owner is not trying to stop the transit but trying to move the line to accommodate the proposed redevelopment.

Council Member Edwards asked the administration what type of assurances can Council receive that Sams and Target will redevelop the area.

Assistant City Attorney Sindelar briefed Council noting there is not a way that the City can assure those specific stores.

Mark Ahrendsen, Transportation Manager, informed Council that the final decision has not been made regarding the mode of transportation and the total cost will be defined as the project progresses.

Several Council Members spoke in support of this item.

Mark Ahrendsen noted for the record that there were comments from Triangle Transit Authority and asked Council to include the resolution as part of the motion.

**MOTION** by Council Member Clement seconded by Council Member Edwards to receive public comment concerning the Faison Development Company's request to amend the US 15-501 Phase II Transit Corridor Map; and

To adopt a Resolution Regarding the US 15-501 Major Investment Study Phase II Report (Map Revision) was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**Resolution #8923**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Clement to request the City/County Appearance Commission review the site plan for the proposed project at South Square Mall was approved at 9:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CABLE TELEVISION FRANCHISE EXTENSION – TIME WARNER**

Ted Voorhees, Assistant City Manager, briefed Council on this item commenting on staff's recommendation.

Council Member Clement asked the administration to review the issue of providing cable service to the downtown area.

Mayor Bell opened the public hearing.

Rev. James Vaughan, representing CATV Advisory Board, noted the Board voted to support the administration's recommendation for a one-year extension of the Time Warner cable franchise agreement and outlined reasons for support.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Edwards to receive citizens' comments on the additional extension through October 31, 2003, of the current cable television franchise, granted by Ordinance #9172, as amended by Ordinance #12106, #12274 and #12498; and

To adopt an ordinance to extend the cable television franchise through October 31, 2003, granted by Ordinance #9172 as amended by Ordinance #12106, #12274 and #12498 was approved at 9:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12679**

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO JULY 1, 2002 – SWANN MILL – LEBANON VOLUNTEER FIRE DEPARTMENT**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

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**MOTION** by Council Member Stith seconded by Council Member Clement to receive citizen comments on public hearings for Swann Mill Subdivision; and

To adopt an ordinance annexing Swann Mill Subdivision in accordance with N.C. General Statutes 160A-58 effective December 31, 2002; and

To authorize the manager to pay the debt service of affected volunteer fire departments (VFDs) for the following annexation areas: Lebanon VFD was approved at 9:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance # 12680**

**SUBJECT: REZONING MATTER CASE P02-50 - AMERICAN CANCER SOCIETY – HOPE LODGE – BERTLAND AVENUE, EAST OF HILLANDALE**

Zoning Committee Recommendation and Vote: Approval - (6-0)

Planning Department Recommendation: Approval

Frank Duke, Planning Director, briefed Council on the staff report. He noted this is a request for a change in the development plan.

Mayor Bell opened the public hearing.

Richard Johnson, representing the applicant, spoke in support of change to the development plan.

No one spoke in opposition to the rezoning request.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning P02-50; and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-50 out of OI-1 (D) and placing same in and establishing same as OI-1 (D) Change in Development Plan was approved at 9:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REZONING MATTER CASE P02-56 - CANU CASSIO DIBONA – DIBONA RESIDENCE – 1410 W. MARKHAM AVENUE**

**October 21, 2002**

Zoning Committee Recommendation and Vote: Approval - (6-0)

Planning Department Recommendation: Approval

Frank Duke, Planning Director, briefed Council on the staff report making comments about the use and noted staff's recommendation is for approval.

Mayor Bell opened the public hearing.

Canu C. DiBona, of 1410 W. Markham Avenue, spoke in support of this rezoning.

No one spoke in opposition to the rezoning request.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning P02-56; and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-56 out of RM-8 and placing same in and establishing same as R-5 was approved at 10:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: ZONING TEXT AMENDMENT TO ALLOW LANDSCAPE  
INSTALLATION EXTENSIONS IN TIMES OF DROUGHT**

Frank Duke, Planning Director, briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Stith seconded by Council Member Edwards to adopt an ordinance to amend the Durham Zoning Ordinance to provide for Landscaping Deadline Extensions in times of Drought was approved at 10:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12681**

**SUBJECT: DURHAM PLANNING COMMISSION - APPOINTMENT**

To appoint a citizen to fill one (1) vacancy on the Durham Planning Commission representing District 4 - term to expire June 30, 2003.



**October 21, 2002**

By ballot, the City Council appointed Corrine A. Mabry to the Durham Planning Commission representing District 4--term to expire June 30, 2003. Ms. Mabry received 4 votes (Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden and Stith).

There being no further business to come before the City Council, the meeting was adjourned at 10:04 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk